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SUMMARY RECORD OF THE 7th MEETING

Chairman: Mr. RATA (New Zealand)
(Vice-Chairman)

later: Mr. TSHERING (Bhutan)

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The meeting was called to order at 3.20 p.m.

AGENDA ITEM 103: ELIMINATION OF RACISM AND RACIAL DISCRIMINATION (continued) (A/50/18, A/50/425-S/1995/787, A/50/467, A/50/468, A/50/476, A/50/493)

AGENDA ITEM 104: RIGHT OF PEOPLES TO SELF-DETERMINATION (continued) (A/50/485, A/50/390 and Add.1, A/50/407)

1. Mr. ARDA (Turkey) said that despite the international, regional and national measures adopted and the relevant international instruments, racism, racial discrimination, xenophobia, anti-Semitism and other related forms of intolerance continued to pose the most serious threat to hopes for a better future. Although the elimination of apartheid had been a victory for all, racism was increasing at an alarming pace, as clearly shown by resolution 1995/12 of the Commission on Human Rights, drafted by Turkey with the assistance of other concerned representatives. The report prepared by the Special Rapporteur (A/50/476) in response to the resolution contained a detailed examination of contemporary forms of racism; the manifold causes of the phenomenon and ways of eradicating them should be discussed at a world conference, as recommended in the report. The United Nations was the international body best equipped to address such global problems and to set standards for their solution. The only way of combating the phenomenon of racism was effective and continuous cooperation among Governments and international governmental and non-governmental organizations. He drew attention to the decision by the European Union to elaborate an overall strategy to combat acts of racism and xenophobic violence. Strengthening domestic legislation was another way of combating racist violence.

2. A variety of economic, religious and social factors fuelled racial violence. Three million Turkish citizens were migrant workers and many of them were the victims of xenophobic acts in the countries where they worked. All countries that employed migrant workers, of whom there were some 20 million altogether, should understand that they were dealing with human beings whose dignity and needs must be respected. It should be borne in mind that racial hatred was capable of attaining extreme proportions leading to genocide, as shown by the tragic plight of the Bosnians and the events in Burundi. The peace agreement between Israel and the Palestine Liberation Organization (PLO) was to be welcomed and had laid the foundations for a process of reconciliation. It was disheartening, however, to note that one fifth of the territory of Azerbaijan was still under foreign occupation, with over a million Azerbaijanis displaced in their own territory.

3. Turkey attached great importance to the right to self-determination of peoples under colonial rule or other forms of alien domination or foreign occupation. That did not mean that it authorized or encouraged any action that would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States with democratically elected Governments and parliaments representing the whole population. The Third Decade to Combat Racism and Racial Discrimination was the key United Nations programme of activities together with the Decade for Human Rights Education. Turkey supported all initiatives aimed at the success of those two decades.

4. Mr. ESAN (Nigeria) said that racism and racial discrimination, whether institutionalized or manifested in official doctrines of racial superiority, were the worst type of violation of human rights. He supported the decision adopted by the Economic and Social Council at its 1995 substantive session to combat all forms of racism and racial discrimination, including "ethnic cleansing" by all possible means. The establishment of the first non-racial democratic Government in South Africa was to be welcomed. Unfortunately, the collapse of apartheid had not ended racism and racial discrimination in other parts of the world. As noted by the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (A/50/476), immediate action at the national, regional and international levels was necessary to combat such phenomena.

5. However, for such action to be taken, the requisite financial resources were needed for the implementation of the activities of the Third Decade to Combat Racism and Racial Discrimination. Emphasis must also be put on developing strategies to promote tolerance. He welcomed the efforts of the European Union to develop strategies to combat acts of racism and xenophobia in its member States and the initiative of holding a Euro-Mediterranean conference in Barcelona to consider diversity, pluralism, the promotion of tolerance and the elimination of racial hatred in the region. It was to be hoped that the outcome of the conference would further action for the mutual benefit of all affected parties and of the international community as a whole.

6. The international community could not but be disturbed when the right of peoples to self-determination, which was enshrined in the Charter of the United Nations and whose importance had been emphasized in the Vienna Declaration and Programme of Action at the World Conference on Human Rights, was threatened or violated as in recent times. At the same time, the right to self-determination could not be allowed to undermine the territorial integrity of sovereign and independent States. The signing of the Interim Agreement between Israel and the PLO, which paved the way for the next phase of Palestinian autonomy as envisaged in the Declaration of Principles, should be supported by all people of goodwill. He appealed to all parties in Western Sahara to make renewed efforts to promote a free and fair referendum as an exercise in self-determination for the peoples of Western Sahara as soon as practicable.

7. With a view to enhancing international cooperation on the topics under discussion, the delegation of Nigeria proposed mobilizing resources to support the implementation of the activities for the Third Decade to Combat Racism and Racial Discrimination and to support the work of the Committee on the Elimination of Racial Discrimination, promoting and respecting the principle of self-determination, fighting the threat of mercenaries and mercenary activities, which undermined the sovereignty of certain States and the stability of young democracies, and ratifying all conventions on racial discrimination and related instruments.

8. Mr. MARUYAMA (Japan) welcomed the peaceful transition to a new united, multiracial and democratic South Africa. It was essential, however, for the international community to support South Africa's efforts, since the country's stability and development was of great importance for the development of Africa

as a whole. To that end, Japan had announced a package of measures that would provide assistance to South Africa totalling US$ 1.3 billion.

9. However, the world continued to be plagued by other forms of racism and racial discrimination, such as xenophobia and the persecution of minorities, ethnic groups and refugees, or the heinous policy of "ethnic cleansing" in the former Yugoslavia and the terrible ethnic conflict in Rwanda. The international community must take all necessary measures and develop the strongest possible policies to combat all such manifestations of prejudice and stereotyping. Japan had always been firmly opposed to all forms of racism and racial discrimination and had been particularly vehement in its denunciations of apartheid. He therefore commended the achievements of the international community, especially the United Nations, in that regard.

10. It was time to turn attention more fully to the activities of the Third Decade to Combat Racism and Racial Discrimination, bearing in mind that the principal objectives of the last two decades had not been attained and that millions of people continued to be victims of such practices. It was incumbent on the international community, the relevant United Nations bodies, specialized agencies and other intergovernmental and non-governmental organizations to participate actively in the work of the Decade. He emphasized the important role being played by the Centre for Human Rights in strengthening coordination between relevant bodies in that area. Given that some of the Second Decade projects had not been implemented because of a lack of resources, it was essential to secure adequate financing for planned activities and to utilize it effectively. Japan had been contributing since 1986 to the Trust Fund for the Decade to Combat Racism and Racial Discrimination and would continue to do so.

11. Education and information could play a major role in eliminating racial prejudice and stereotyping, fostering mutual understanding and tolerance and achieving racial harmony. It was essential for the international community to intensify its efforts in that area during the United Nations Year for Tolerance and the first year of the United Nations Decade for Human Rights Education. The definitive elimination of racial discrimination called for more wide-ranging measures at both the international and national levels. The International Convention on the Elimination of All Forms of Racial Discrimination had played a key role in efforts to root out the pestilence and to promote understanding among all races. Japan had worked assiduously for the early conclusion of the Convention.

12. On the occasion of the fiftieth anniversary of the United Nations, efforts should be redoubled to ensure universal enjoyment of the right of peoples to self-determination through practical and peaceful measures. One of the most important developments in that area had been the signing of the latest agreement between the Government of Israel and the Palestine Liberation Organization. It was to be hoped that efforts to secure peace in the Middle East would continue and that the negotiations between Israel and the Syrian Arab Republic and between Israel and Lebanon would continue to advance. Japan had participated actively in the multilateral negotiations and had provided all possible support to the Palestinian National Authority. In September 1993, Japan had pledged to provide US$ 200 million in assistance to the Palestinians over a two-year period

and had disbursed US$ 150 million to date, allocating just under US$ 44 million to the start-up costs of Palestinian self-rule.

13. In view of the recent changes in the world in the areas of racial discrimination and self-determination, he expressed the view that the General Assembly, in formulating its resolutions, should make sure that it was responding to conditions as they stood. Such an approach was particularly important under current circumstances and would enhance confidence in the Third Committee.

14. Mrs. de BARISH (Costa Rica) noted the positive role played by the United Nations in ending the policy of apartheid in South Africa. There should, however, be no abatement in the struggle against racial discrimination since despite such achievements genocidal practices had emerged in other regions and had become part of State policy, as in the case of so-called "ethnic cleansing", which was just as cruel and pernicious as apartheid and had taken on alarming proportions. It was essential to ensure that the perpetrators of those crimes did not go unpunished by turning to account the valuable collection of treaties and conventions that categorized such outrages and could be used to punish the offenders. The case of the former Yugoslavia had been one of the worst examples of human rights violations through its practice of "ethnic cleansing".

15. With regard to the implementation of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination, the delegation of Costa Rica would favour adoption of the recommendations of the Commission on Human Rights contained in its resolutions 1995/11 and 1995/12 concerning, respectively, the establishment of a coordinating centre in the Centre for Human Rights to be responsible for considering information relating to activities carried out under the Third Decade and for making practical recommendations for future activities, and the possibility of using voluntary funds or creating a new fund for the rehabilitation and social reintegration of victims of acts of racism, discrimination, intolerance and "ethnic cleansing".

16. With regard to the right of peoples to self-determination, the number of Member States had quadrupled since the signing of the Charter of the United Nations as a result of the application of the principle of self-determination of peoples, especially peoples under foreign colonial domination. The Organization's universality had obviously been enhanced as a result. The General Assembly had adopted numerous resolutions, the most recent being resolution 49/148, supporting universal realization of the right of all peoples to self-determination, including those under foreign colonial domination. The General Assembly had requested the Commission on Human Rights to continue to give attention to the violation of the right to self-determination resulting from foreign military intervention, aggression or occupation. The report of the Special Rapporteur of the Commission on Human Rights on the use of mercenaries was a valuable source of information on mercenary activities and their fatal consequences. The chapter on recommendations contained one to the General Assembly to the effect that it should suggest to Member States that had not yet done so to consider taking early action to ratify or sign the International Convention against the Recruitment, Use, Financing and Training of Mercenaries, thus speeding up the process of its entry into force. The delegation of Costa

Rica took note of the recommendation and urged other Member States to follow suit.

17. Mrs. TAMLYN (United States of America) recognized the importance of the right of peoples to self-determination, as reflected in the Charter of the United Nations and reiterated by the General Assembly in its resolution 49/148. The cause of self-determination had recently been advanced when, after months of difficult negotiations, the Interim Agreement on the West Bank and the Gaza Strip had been signed by Prime Minister Rabin and PLO Chairman Arafat in the presence of President Clinton. The Agreement provided for greater Palestinian autonomy in the West Bank, leading to Palestinian elections early the following year, and represented a step forward in the Israeli-Palestinian peace process.

18. The question of mercenaries had been thoroughly reviewed by the Ad Hoc Committee established by General Assembly resolution 35/48, which had drafted an International Convention against the Recruitment, Use, Financing and Training of Mercenaries that had been adopted by the General Assembly at its forty-fourth session in 1989 and was open for signing and ratification by Member States. In the light of those activities, consideration of the matter by the Third Committee would represent duplication of effort. It was time to move beyond issues that had been resolved in other bodies and to focus the debate more usefully.

19. The United States attached major importance to the eradication of racism and racial discrimination in the world and had therefore ratified the International Convention on the Elimination of All Forms of Racial Discrimination in October 1994. It would be submitting its initial report on implementation to the Committee on the Elimination of Racial Discrimination within the next few months. The United States supported implementation of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination and endorsed efforts to develop educational programmes on the importance of eradicating the evils of racism and related forms of intolerance.

20. The United States legal system was an excellent example of a system based on laws that respected the basic civil and political rights of all individuals as a precondition for any society hoping to eliminate racial discrimination. The Special Rapporteur's report on his visit to the United States the previous year stated that it was the country's continuing goal to eliminate racism through laws designed to eradicate any institutionalized racial discrimination and to provide protection in all fields of public endeavour. There were also effective means of redress and recourse for the victims of discriminatory acts. With regard to the Special Rapporteur's comments on affirmative action, public and legislative debate continued on the proper scope of such measures for the eradication of past inequities.

21. Despite disappointment with some aspects of the report prepared by the Special Rapporteur following his visit to the United States, she expressed support for his work and encouraged other States to consider inviting him, following the example of Brazil, Germany, France and the United Kingdom. Furthermore, the United States joined the Special Rapporteur in condemning ethnic crimes in the former Yugoslavia and in expressing growing concern over the tensions between Hutus and Tutsis in Burundi.

22. Mr. MBATHA (South Africa), referring to the elimination of racism and racial discrimination, commended the role played by the international community in isolating and finally destroying the system of apartheid in South Africa. On 27 April 1994, all the men and women who had been denied the right to vote for centuries elected their first democratic, non-racial and non-sexist Government in the country's history. The current Interim Constitution forbade the practice of racism and racial discrimination in South Africa, and guaranteed people's rights against discrimination based on colour, gender, ethnic or social origin, age, disability, belief, culture, language or religion. Anyone who felt that he or she was being discriminated against was entitled to approach any competent court of law to seek redress. The Interim Constitution provided a historic bridge whereby South African people would be able to move from the past era characterized by racism, racial discrimination, strife, suffering and injustice towards a future founded on recognition of human rights, democracy, peaceful coexistence and development opportunities for all, irrespective of colour, race or class.

23. The Government of National Unity had therefore set up mechanisms to prevent the recurrence of the apartheid system, including the "Restitution Programme" whose goal was to restore land rights or other forms of compensation to people who had been dispossessed of their land since 1913 through racially discriminatory legislation and practice. In the fields of health and education, the Government of National Unity had embarked on comprehensive programmes to provide basic services previously denied to the majority of the South African people. In particular, it had successfully amalgamated the 14 education administrations of the previous Government and former homelands into one national Department of Education. The Department dealt with the legacy of the historical separate education and training systems which had operated along ethnic and racial lines in almost total isolation from each other. Parliament had adopted the National Unity and Reconciliation Act, which provided for the establishment of a Truth and Reconciliation Commission to investigate gross violations of human rights arising from the conflicts of the past committed within or outside South Africa during the period 1 March 1960 to 5 December 1993.

24. Only a few months previously, the Constitutional Court, established in 1994 following the elections, had taken a historic decision by ruling that the death penalty was unconstitutional. Furthermore, section 115 of the Interim Constitution provided the basis for the establishment of a Human Rights Commission to protect and promote fundamental rights. The Commission was also empowered to arrange for or provide financial assistance to any person who had been adversely affected by alleged violations of human rights to enable proceedings to be instituted in a competent court for the necessary relief.

25. On behalf of the millions of people who had experienced discrimination firsthand, his delegation reiterated its commitment to the goals and objectives of the Third Decade to Combat Racism and Racial Discrimination. The international community, in view of the prominent role it had played in the eradication of apartheid, needed more than ever to be on guard against the resurgence of racism and racial discrimination, in whatever form.

26. Ms. CORNETTE (Guyana), speaking on behalf of the countries of the Caribbean Community (CARICOM), said that from its inception the United Nations had been committed to the elimination of racism and racial discrimination, a commitment enshrined in the Charter of the United Nations. Although much headway had been made, persistent and dangerous ignorance and irrationality continued to stir up racial prejudice and hostility, and new forms of racism had emerged. Xenophobia and other official doctrines of racial superiority, ethnic cleansing and intolerance claimed victims among migrant workers, ethnic minorities, indigenous peoples, refugees and religious groups.

27. The Caribbean Community welcomed the report of the Special Rapporteur of the Commission on Human Rights responsible for examining contemporary forms of racism, racial discrimination, xenophobia and related forms of intolerance (A/50/476) on its activities in 1995 and fully supported his recommendations. It was to be hoped that the Special Rapporteur would continue to receive the necessary human and financial assistance which would enable him to carry out his functions. All countries were urged to give their full support in that regard. Closer coordination between the Special Rapporteur, the United Nations High Commissioner for Human Rights and the Committee on the Elimination of Racial Discrimination would serve to improve their efficiency and effectiveness.

28. The Caribbean Community considered that it was crucial to take preventive action to promote respect for the many diverse groups existing in societies. Such action might involve educating the public to further environmental peace, tolerance and mutual respect for all. The Caribbean Community supported the recommendation by the Economic and Social Council to the General Assembly to consider, at its fiftieth session, the possibility of convening a world conference on the elimination of racism, racial and ethnic discrimination, xenophobia and other related contemporary forms of intolerance. The Third Decade to Combat Racism and Racial Discrimination and its Programme of Action offered the opportunity to eradicate racial prejudices, which had caused the suffering of millions of people throughout the world. Efforts would be necessary at the national and international levels to ensure full implementation of the objectives identified. To that end, it would be necessary to obtain adequate financing since the failure of the first two Decades had been due primarily to lack of funding.

29. The member States of the Caribbean Community wished to express their sincere congratulations to the Republic of Palau on its attainment of independence. In choosing to become a sovereign nation, the people of Palau had given the international community renewed hope in its efforts to move towards an even more prosperous and democratic world.

30. With regard to the Middle East, CARICOM delegations welcomed the signing of the Interim Agreement between Israel and the Palestine Liberation Organization and trusted that it would be yet another step towards real and lasting peace leading to autonomy in that region. It also welcomed the peace treaty between Israel and Jordan and the resumption of negotiations between Israel and Syria which would contribute to peace in the region.

31. The Caribbean Community had always considered the right to self-determination, as set forth in various United Nations instruments, to be a

fundamental right for all peoples of the world. The full exercise of human rights was inseparably linked to the right of peoples to self-determination. All citizens should have the right and opportunity to participate in the administration of the public affairs of their country and that principle of participatory democracy was well-entrenched in all CARICOM countries.

32. People in many parts of the world continued to be deprived of their right to self-determination. The persistent use of mercenaries in the numerous armed conflicts around the world violated the principles of sovereign equality, political independence and territorial integrity of States and of self-determination of peoples. The Special Rapporteur on the use of mercenaries had identified mercenary activities in Africa and in the former Yugoslavia in his 1995 report to the General Assembly. The CARICOM States therefore called for effective action by the international community for the prevention and punishment of such activities.

33. Mr. CHIRILA (Romania) said that although apartheid had become history, the manifestations of racial discrimination, intolerance, xenophobia and racially motivated violence were still cause for great concern to Governments and the international community since they led to tensions and conflicts and also endangered regional and international stability. Therefore, the elimination of racism and racial discrimination should continue to be an important agenda item of the General Assembly.

34. Romania considered that elimination of discrimination and intolerance could not be achieved without universal adherence to and implementation of the International Convention on the Elimination of All Forms of Racial Discrimination and other relevant international human rights instruments. It was particularly important for Governments to cooperate fully with the human rights monitoring mechanisms, including the Committee on the Elimination of Racial Discrimination. Romania also attached great importance to the implementation of the revised Programme of Action for the Third Decade to Combat Racism and Racial Discrimination, which required full participation at all levels. In that regard, regional arrangements such as the cooperation with the Organization for Security and Cooperation in Europe (OSCE) and the Council of Europe was particularly useful. Romania, together with other European countries, was actively involved in the campaign against racism, xenophobia, anti-Semitism and intolerance launched in 1995 following the decision adopted at the 1993 Vienna Summit Meeting of the Council of Europe.

35. In the context of the celebration of the United Nations Year for Tolerance, in May 1995 his country had hosted an international seminar on tolerance organized under the auspices of the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe and the Council of Europe, in cooperation with the United Nations Educational, Scientific and Cultural Organization.

36. His delegation believed that education was an effective weapon with which to prevent discrimination and intolerance and that the United Nations Decade for Human Rights Education should result in practical teaching programmes in the field of human rights and cultural pluralism. He emphasized the need for increased resources for the promotion and protection of human rights and,

inter alia, the restructuring of the Centre for Human Rights and the activities of the Committee on the Elimination of Racial Discrimination.

37. During the preceding six years his country had irreversibly embarked on the road to democracy, the rule of law and the protection of universal human rights and it attached the utmost importance to matters relating to minorities, a basic prerequisite for building a genuine democracy that would contribute to regional and international security and cooperation. His country's new Constitution stipulated that international human rights norms prevailed over national legislation. It was primarily the responsibility of Governments to enact and implement legislation which would encourage an open dialogue among all sectors of civil society and to promote cross-border cooperation and a policy of good-neighbourliness. In that regard, he wished to recall the recent initiatives launched by the President of his country concerning the historic reconciliation between Romania and Hungary.

38. His delegation considered that in the post-cold-war era the right of peoples to self-determination was closely linked to the enjoyment of other human rights and to the promotion of democratic values in general. The full exercise of that right increasingly required the establishment and development of democratic institutions, the rule of law, the participation of all citizens in the management of public affairs, the organization of free and fair elections, political accountability, the decentralization of power and the promotion of local self-government. The most recent developments in the peace process in the Middle East involving the leaders of Israel and the Palestine Liberation Organization were a significant step forward and a contribution to peace in the region.

39. Mr. KULYK (Ukraine) said that despite the efforts of the United Nations to eliminate racism and racial discrimination, they continued to pose a threat because they had assumed new forms such as xenophobia, intolerance and abuses of national minorities, indigenous peoples, migrant workers and other groups. The complete eradication of all contemporary forms of racism, racial discrimination and intolerance should be a priority task of the world community and effective measures should be taken to prevent and combat them.

40. His country had always condemned all forms of racism and racial discrimination and believed that the issue must be viewed in the broader context of universal human rights. Respect for those rights was a decisive factor in preventing ethnic and territorial disputes and, therefore, one of the elements of international security. Discrimination and intolerance had caused most of the world's tragedies and suffering, as illustrated by the events which had occurred in the territories of the former Yugoslavia and in Rwanda.

41. His delegation believed that consideration should be given to the possibility of establishing early warning procedures to improve the capacity of the United Nations to prevent racial and ethnic conflicts. The Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, the High Commissioner for Human Rights and the Centre for Human Rights could play a crucial role in elaborating the theoretical and conceptual approach to new forms of those phenomena. Maximum use should be made of the opportunities offered by the

United Nations Decade for Human Rights Education, since respect for and recognition of the concept of human rights promoted greater understanding and tolerance.

42. Since Governments had the primary responsibility for the elimination of racial discrimination, it was necessary to ensure the universal acceptance and implementation of the International Convention on the Elimination of All Forms of Racial Discrimination. In his country a system of legal guarantees expressly prohibited racism and racial discrimination and there had been no serious cases of hostility or violence for reasons of national, ethnic or racial origin or manifestations of anti-Semitism. Special importance in that respect was attached to the rights of national minorities, which constituted one fourth of the population of his country. A reliable legal basis had been created to protect their rights and establish the true equality of nationalities.

43. The right of peoples to self-determination, given its very nature and the fact that it was closely linked to the notion of territorial integrity and the inviolability of borders, continued to be one of the most controversial issues. Accordingly, it was necessary to elaborate new international approaches conducive to fair and flexible solutions in order to prevent new conflicts, in strict accordance with constitutional procedures and the internal legislation of the State concerned. It must be borne in mind that the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations clearly stated that the right of self-determination could not be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity of sovereign and independent States. At the same time, the right to self-determination provided that all peoples had the right freely to determine their political status and pursue their economic, social and cultural development.

44. In that connection, he underscored the importance of increased cooperation among States in order to adopt the necessary measures to prevent and prohibit mercenary activities. His country had always attached considerable importance to measures adopted by the United Nations system to prohibit the use of mercenaries in armed conflicts and was a party to the International Convention against the Recruitment, Use, Financing and Training of Mercenaries. Domestic legislation explicitly prohibited any type of mercenary activities and his country was in the process of considering new measures to prevent organizations linked to mercenaries from operating in its territory.

45. Mr. Tshering (Bhutan) took the Chair.

46. Mr. HOXHA (Albania), referring to agenda item 103, said that despite progress achieved at the international level, racism and racial discrimination persisted in new forms which had acquired serious proportions. His delegation attached particular importance to the implementation of the Programmes of Action of the Third Decade to Combat Racism and Racial Discrimination as a means to combat those phenomena effectively and supported efforts to secure the necessary resources to that end.

47. His country had always strongly condemned the policy of "ethnic cleansing" carried out by the Serbs in the territories of the former Yugoslavia and hoped that the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia would play an historic role.

48. His country was deeply concerned about the situation of more than 2 million Albanians living in their native land of Kosovo. It had repeatedly condemned the institutional discrimination to which they had been subjected by the Serb authorities, which had become a virtual system of apartheid. The system had also been condemned by a number of bodies and organs, including the Subcommission on Prevention of Discrimination and Protection of Minorities, which in August 1995 had adopted a resolution on the situation of human rights in Kosovo. In addition to institutionalized discrimination, Albanians in Kosovo were subjected to military and police repression which was intended to make life impossible for them and force them to flee. As a result, Belgrade was facilitating the settlement of Serb settlers in the region and of thousands of Serb refugees who had escaped the hostilities in Croatia and Bosnia and Herzegovina.

49. With regard to agenda item 104, Albania, as a Balkan country, was deeply concerned about the violation of the right of the peoples of the peninsula to self-determination. In Bosnia and Herzegovina, Serb aggression had openly challenged all the principles and norms on which international relations were built. In Kosovo, violence unleashed by the Serb police and armed forces had jeopardized peace and regional security. He pointed out that Kosovo had been one of the eight constituent units of the former Yugoslavia, enjoying at the time the same constitutional rights as the other republics except for the right to be called a republic. The abrogation of the 1974 Constitution of the former Yugoslavia and the abolition of Kosovo's status had given a clear warning of what lay ahead, but the international community had unfortunately failed to appreciate the gravity of the situation at the time.

50. In the face of Serb repression and discrimination, the people of Kosovo had expressed their political will, peacefully and democratically, in a referendum held in September 1991. Of the 87.01 per cent of the electorate who participated, 99.87 per cent had voted for the independence of Kosovo. In addition, general and presidential elections had been held in 1992 which, far from being recognized by Belgrade, had led to an intensification of violence and repression in the region. The Government elected on that occasion had pursued a policy of restraint, thereby avoiding the outbreak of hostilities, but there was no guarantee that the situation could be maintained indefinitely. Kosovo needed a lasting solution based on respect for the will of its inhabitants. The issue should therefore be included in the peace talks relating to the former Yugoslavia without delay. As a peace-loving country and a factor of stability in the region, Albania called for the realization of the right of the Albanian people of Kosovo to self-determination based on the relevant instruments, including the Helsinki Final Act.

51. Mrs. BARGHOUTI (Observer for Palestine) said that an assessment of the achievements of the United Nations on its fiftieth anniversary revealed a number of positive developments, including the establishment of a non-racial democratic

South Africa, which had made the international community more hopeful of ultimately eradicating all forms of discrimination and oppression. Combating inequality and securing the right of peoples to self-determination should rank among the international community's top priorities. More concrete action was required to that end, especially respect for peoples living under alien domination or foreign occupation.

52. The Palestinian people still suffered from discrimination, oppression and the denial of its right to self-determination. Hoping to end the unjust Israeli occupation and the harsh conditions that the Palestinian people had been enduring, the Palestine Liberation Organization and the Palestinian Authority had participated, as a matter of principle, in the entire peace process and had undertaken to implement the agreements signed between them and the Government of Israel. The Interim Agreement on the expansion of Palestinian self-rule in the West Bank, signed in Washington, D.C., on 28 September 1995, represented an additional step towards peace and realization of the inalienable rights of the Palestinian people, particularly its right to self-determination. In that connection, the delegation of Palestine wished to reiterate that that right could be exercised in the course of the current peace process and that its recognition would not prevent the parties from pursuing their own political preferences with respect to the outcome of the process.

53. For the Palestinian people, real and lasting peace meant the achievement of its inalienable rights, including the right of return, the right to self-determination and the right to establish an independent Palestinian State with Jerusalem as its capital. It was extremely important at that stage for the States Members of the United Nations to support and recognize that basic right of the Palestinian people; it was therefore to be hoped that the draft resolution to be submitted to the members of the Third Committee by the delegation of Palestine would be adopted by consensus.

54. Mr. PASHAYEV (Azerbaijan) said that at the forty-ninth session of the General Assembly his delegation had warned that a vague interpretation of the right of peoples to self-determination could jeopardize the territorial integrity of States. As history had shown, the violation of that principle had led to the outbreak of conflicts that had lasted many years and inflicted untold sufferings on the civilian population. The instigators of such conflicts acted out of self-interest and would stop at nothing. The activities in question were known as "mercenary" and, because of the danger they represented, the General Assembly, in resolution 49/150 of 23 December 1994, had reaffirmed that the use of mercenaries and their recruitment, financing and training were causes of grave concern to all States and violated the purposes and principles enshrined in the Charter of the United Nations.

55. Azerbaijan viewed as absurd the charges made by Armenia in the letter from that Republic's Deputy Minister for Foreign Affairs to the Special Rapporteur of the Commission on Human Rights concerning the use of mercenaries (A/50/390/Add.1), alleging that States such as Turkey, the United States, the Russian Federation and the Islamic Republic of Iran had sent mercenaries to Azerbaijan and funded their use. In the same letter, Armenia had failed to admit the presence of Armenian mercenaries in Nagorny Karabakh.

56. As noted by the Special Rapporteur in his report (A/50/390), mercenaries generally denied their true status, claiming other motives in order to disguise the nature of their role. Such was true of the so-called army of Nagorny Karabakh, which was ostensibly of Armenian origin although it was constituted of nationals of other States. Armenia sought to conceal the mercenary status of the combatants, arguing that they had not been recruited by any authority but were volunteers fighting for patriotic rather than economic motives and that they were of Armenian origin.

57. In the case of Nagorny Karabakh, origin was of little importance since only part of the population was Armenian. Azerbaijan, however, unlike Armenia, was a country composed of many ethnic groups, all of which had representatives in its armed forces who defended their native country as Azerbaijani nationals. Clearly, Armenia overlooked the characteristics of a mercenary specified by the Special Rapporteur in his report: a mercenary must be a non-resident alien. The involvement of volunteers in the Nagorny Karabakh conflict was more than questionable. In that context, his delegation endorsed the statement in paragraph 34 of the Special Rapporteur's report concerning the criteria to be considered with a view to preventing mercenary activities.

58. Lastly, the Government of Azerbaijan attached the highest importance to the communication dated 8 May 1995 sent by the Special Rapporteur to the States Members of the United Nations, requesting information concerning mercenary activities and their connection with terrorist attacks, inasmuch as Azerbaijan had been the victim of many such attacks since the outbreak of the conflict with Armenia. He therefore felt that the time had come for the United Nations to reject mercenary activities unequivocally.

59. Mr. KILO-ABI (Zaire) regretted that although the frontiers of racism as such had receded, subtle forms of discrimination and racism, such as xenophobia, exclusion, hatred and other contemporary forms of intolerance, still existed in the world. The situation prevailing in the Great Lakes subregion of Africa, to which Zaire belonged, besides reflecting a total lack of consideration for the human person, was a patent manifestation of ethnic hatred. The elimination and eradication of the root causes of that deplorable situation would permit the coexistence of ethnic groups that shared not only a language but also the same cultural and geographical space.

60. It was regrettable that the United Nations, established to serve as a link between peoples and nations, lacked the means to implement its policy. He cited as examples the lack of political will among countries to mobilize resources for the rehabilitation and reintegration into society of the victims of racism and the delay in implementing resolution 1995/59 of the Economic and Social Council concerning the Third Decade to Combat Racism and Racial Discrimination.

61. The number of States Members of the United Nations had increased from 51 to 185, thanks to the determination of peoples to exercise the right to self-determination. Regarding mercenaries whose activities impeded the exercise of the sovereign will of free peoples, Zaire, which had been a victim of such deplorable actions, was applying a firm policy both in the context of the Organization of African Unity and in other international forums, and totally condemned the presence and the activities of foreign mercenaries in Africa.

62. Zaire had therefore received with a mixture of indignation and surprise the report of the Special Rapporteur on the question of the use of mercenaries (A/50/390), which stated in paragraph 44 that the situation in Zaire had been aggravated by the presence of mercenaries, and that the Government of President Mobutu had resisted all attempts to regularize the political regime constitutionally and to lay the foundations, based on consensus, for a democratic transitional period leading to the holding of general, multi-party elections. The Special Rapporteur also asserted that the President's Special Division was formed and trained by foreign mercenaries. Given the anachronistic nature of those allegations, and the deliberately created confusion regarding a combatant branch of the country's armed forces, his delegation demanded the withdrawal of those entirely unfounded allegations.

63. Following the publication of the Constitutional Act of the Transition, elaborated by mutual agreement among the various political sectors, four independent institutions were functioning in Zaire: the Presidency of the Republic, the Parliament of Transition, the Government, and the courts and tribunals. The agreements instituting political pluralism in the country had been ratified by the country's entire political class, in the presence of a Special Representative of the Secretary-General of the United Nations. The President of the Republic was the guarantor of the country's unity and territorial integrity, while the Government, under the supervision of the Parliament of Transition, was responsible for the management of political affairs.

64. Regarding the presence of mercenaries, Zaire had signed defence and military-assistance agreements with a number of friendly countries, in the exercise of its sovereignty and in accordance with the fundamental principles of the Charter of the United Nations. Military aid to the Armed Forces of Zaire was being provided strictly within the framework of cooperation and technical assistance between Zaire and its partners. At a time when the transitional Government was endeavouring to improve the country's listless and unstructured economy and to prepare for presidential and parliamentary elections, the international community should do all it could to mobilize support for a pluralistic and democratic Zaire.

65. Mr. Nasrullah KHAN (Pakistan) said that the right of peoples to self-determination was the foundation of the international order, and that right should be a free and genuine expression of the will of the people without any coercion or external influence. Any election, referendum or plebiscite organized unilaterally by the colonial or occupying authorities did not constitute a free expression of the will of the people. He welcomed the efforts being made to find a comprehensive peace in the Middle East, and hoped that the crisis in the Balkans would be solved in such a way that the territorial integrity of Bosnia and Herzegovina would be preserved and that the aggressors would be punished under international law.

66. The right to self-determination of the people of Kashmir had been the first to be recognized by the United Nations 48 years previously, and it was regrettable that the people of Jammu and Kashmir still could not exercise that right, because of the use of brutal force by the Indian occupation forces. The state of Jammu and Kashmir was a disputed territory. Its political status was

to be determined through a free and impartial plebiscite under the auspices of the United Nations as mandated by the Security Council and solemnly accepted by both India and Pakistan. India had rejected all the measures adopted by the Security Council and therefore had no right to declare its candidature for a permanent seat in the Security Council, whose resolutions were the only agreed basis for a solution of the dispute.

67. India argued that the people of Jammu and Kashmir had exercised their right to self-determination through elections held in Kashmir and the decisions of its Constituent Assembly. As early as 1951, however, Prime Minister Nehru of India had declared that the Constituent Assembly did not supersede the United Nations resolutions. The Security Council had rejected unilateral action taken by India to determine the future of Jammu and Kashmir. In any event, the so-called elections held in Jammu and Kashmir had been fraudulent. The Secretary-General of the United Nations had stated, in his annual report (A/49/1), that the question of Jammu and Kashmir was one of the oldest unresolved conflicts still on the United Nations agenda. Even the report of the International Commission of Jurists, released earlier in 1995, confirmed that the right of self-determination of the people of Jammu and Kashmir had not been exercised. The denial of that right by India contravened not only the resolutions of the Security Council, but also the Charter of the United Nations, and was a violation of the major human rights instruments. The brutal repression used by India to suppress the freedom struggle of the people of Kashmir, the massacres of innocent civilians, women and children, murders, summary and extrajudicial executions, torture and disappearances had been denounced by international human rights bodies. The Indian counter-insurgency agencies had set up a new group, which had kidnapped five foreign tourists and beheaded an innocent Norwegian tourist. All Kashmiri parties and Pakistan had condemned that senseless killing of an innocent tourist. That was just a glimpse of the atrocities suffered by the people of Kashmir - the victims of systematic genocide - which had little means at its disposal to defend itself against aggression.

68. India was again talking about a political process and elections in Kashmir, but its sole purpose was to deflect attention from its ongoing repression and to divide the Kashmiri political leadership. The people of Kashmir could not accept elections organized by India; only a plebiscite under United Nations supervision would be considered valid. India portrayed the Kashmiris as terrorists and Islamic fundamentalists in order to justify its brutal repression. The Kashmiri resistance was legitimate; it was the struggle of a people under colonial and alien domination to exercise the right to self-determination. It was the troops of the Indian army of occupation who were war criminals, and they must be punished for their crimes. India also talked about bilateral negotiations to solve the Jammu and Kashmir dispute. In the seven rounds of talks held so far, however, India had refused to address the question. In order to solve the problem, the talks must be substantive and not merely diplomatic trickery.

69. The indomitable spirit of the valiant people of Kashmir would not be crushed by Indian terror. The international community must not allow India to commit genocide in Kashmir. The time had come to ensure free and fair expression of the will of the people of Kashmir through an impartial plebiscite. The time had come for India and Pakistan to free themselves from tension and

conflict and embark on a course which would lead to peace and prosperity in South Asia.

70. Mr. SURIE (India) said that Governments should act urgently in response to the first signs of the new forms of racism identified by the Committee on the Elimination of Racial Discrimination; those included the lack of legislation for defining and criminalizing all forms of racial discrimination, inadequate enforcement mechanisms, tolerance of racial hatred or of violence by individuals or groups, patterns of economic and social discrimination, displacement of people resulting from racism, and encroachment on minority lands.

71. As the Special Rapporteur had stated in his report on that subject, it was disturbing to observe that, legitimized by a cloak of legality, xenophobia was becoming increasingly commonplace. In that context, it should be noted that certain Governments had claimed the right to adversary procedure in response to reports produced by human rights non-governmental organizations, for the purpose of highlighting their own opinions. While the underlying causes of such racism should be tackled, there was also an urgent need for educational institutions and the media in all countries to educate public opinion about foreign cultures and peoples and to promote tolerance and respect for them.

72. In the context of self-determination, India welcomed the latest accord between Israel and the Palestinian National Authority as yet another step towards achieving a comprehensive, just and lasting peace for all parties in the region. The right of self-determination had always been considered as the legitimate right of people freely to determine their political, economic and social systems within their national boundaries. It could not, therefore, be interpreted as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States.

73. As noted by the Special Rapporteur in his report on the use of mercenaries (A/50/390 and Add.1), mercenary activity was a growing threat to democracies and multicultural States and to condone it was to appease terrorism, violence and aggression. India had been a victim of sustained terrorism by mercenaries, armed, trained, financed and infiltrated from outside its borders by other countries for over a decade.

74. Recently, there had been attempts to redefine the concept of self-determination, particularly in the context of the end of the cold war. One such attempt equated self-determination with internal political and administrative "autonomy" within a State. India had a federal structure with decentralization of power, but it would strongly oppose any external attempt to equate the concept of self-determination with any State's internal autonomy, as a gross violation of the Charter of the United Nations and of the principle of State sovereignty. Nor could self-determination be based on uniformity of race, religion, ethnicity, colour or any other category. Taken out of context, self-determination could be abused by interested parties to encourage secession and undermine multi-ethnic, pluralistic, democratic States, which by their very secular nature were among the most open and equal societies and promoted regional and world stability. It must be underlined that the territorial integrity and political unity of States was inviolable.

75. The Secretary-General had warned of the danger of unlimited fragmentation if every ethnic, religious or linguistic group claimed statehood. Pakistan had returned yet again to its one-point agenda regarding India and its obsession with the possession of Jammu and Kashmir. The opportunism arising out of the end of the cold war had plunged some States into frenzied attempts to grab neighbouring territory that might be ethnically similar, by promoting cross-border destabilization through terrorism, mercenary activities and ethnic cleansing. Pakistan's espousal of self-determination in the Indian state of Jammu and Kashmir was untenable in pure logic. By questioning the acts of accession of former princely states either to India or Pakistan, Pakistan questioned the very creation of itself. It was also untenable in methodology because, by questioning the implementation of the Security Council resolutions, Pakistan refused to admit that it had been the first to violate those resolutions and to prevent a plebiscite by refusing to end the aggression it had committed against the territory of Jammu and Kashmir. Moreover, the historic judgement of 3 March 1993 of the High Court of the part of Kashmir occupied by Pakistan accused the Pakistani Government of yet another violation of the Security Council resolutions by its administrative separation of the northern territories of occupied Kashmir from the rest of that area.

76. Pakistan had craved Indian territory from the outset. Having failed to capture Jammu and Kashmir after three wars, it had now resorted to terrorism which had resulted in the ethnic cleansing of more than 300,000 Muslims, Hindus Sikhs, Buddhists and Christians from the Kashmir valley and their transfer to other parts of India. Jammu and Kashmir was an integral part of India and would remain so forever. The only impediment to peace was terrorism directed, funded and sustained from across the border. The only solution was the cessation of aggression by Pakistan and the return to India of that portion of Jammu and Kashmir under foreign occupation since 1947.

77. Mr. KAMAL (Pakistan), speaking in exercise of the right of reply, said that the Government of India had once again tried to advance the belief that the people of Jammu and Kashmir had already exercised their right to self-determination in 1947. That was a patent falsehood; since that time, India was responsible for the continued occupation and subjugation of its people. India also claimed that the people of Kashmir had exercised their right to self-determination through the elections held by the Indian occupation authorities. Those elections had been a farce, and at the last one, held in 1989, less than 3 per cent of the voters had participated. Currently the Government of India was talking about fresh elections in Kashmir, but after the wave of massacres, disappearances, torture and arbitrary detention, that new farce had been rejected by the entire leadership of Kashmir.

78. In its diatribe against terrorism, India had conveniently omitted the worst form of terrorism - the State terrorism which it practised itself - perhaps believing that it could thus conceal its terrorist operations against the innocent people of Jammu and Kashmir. There was irrefutable evidence that India had sponsored, supported, trained and financed terrorists in all its neighbouring countries. Through coercion, aggression and the use of force against its neighbours, India had pursued a consistent policy of expansionism and hegemony. The fact remained that Jammu and Kashmir was a disputed territory recognized as such by the international community and the United Nations.

79. Mr. SURIE (India), speaking in exercise of the right of reply, said that independent India had banned discrimination on any grounds. On the other hand, the constitutional system of Pakistan was based on religious discrimination, and its electoral system prescribed apartheid-like separate electorates for religious minorities. Even among the Muslim majority, there was conscious discrimination against minority Muslim sects. Currently, many of its own citizens were suffering terrorism and repression, and another large group had languished for two decades in refugee camps in another country because Pakistan denied them their right to return.

80. Pakistan had an obsession with the territorial and political disintegration of India, in order to validate its own theory of national and geopolitical identity based on religion alone. To that end, it had developed convenient theories and practices. The northern areas of Kashmir occupied by Pakistan had been administratively separated from the rest of the territory and had never had an election or representation in the Parliament of Pakistan. The constitution of the part of Kashmir occupied by Pakistan made it amply clear that any suggestion of self-determination in that region was forbidden by law. The people of Jammu and Kashmir had exercised their right of self-determination in 1947 and that territory was and would continue to be an integral part of India.

81. There was convincing evidence of the direct involvement of Pakistan in instigating terrorism in Jammu and Kashmir, along with its interventionist intentions and incitement to ethnic hatred. Pakistan should focus its efforts on healing the ills of its own country and living in peace and amity with all its neighbours.

82. Mr. KAMAL (Pakistan), speaking in exercise of the right of reply, said that India practised a caste system, under which much of the population was considered untouchable. The representative of India had not addressed the reports of massive human rights violations in Kashmir nor the acts of terror committed by the occupation force; instead, he attempted to deflect attention from the crimes being committed by India. Jammu and Kashmir was a disputed territory that must exercise its right to self-determination under United Nations supervision. The Security Council resolutions remained binding. The right of the Kashmiri people to enjoy self-determination would be fulfilled when it was exercised through the modality defined in the Security Council resolutions, which ensured the free expression of their will.

83. Mr. SURIE (India), speaking in exercise of the right of reply, said that Jammu and Kashmir was and would remain an integral part of India. Elections had been held in that territory and the people of that state of India had chosen their own government. On 21 August 1995, the founder and leader of the Mujahir Qaumi movement of Pakistan had sent a letter to the President of Pakistan, with copies to the United Nations Secretary-General and the Chairman of the Commission on Human Rights, among others.

84. Mr. KAMAL (Pakistan), speaking on a point of order, said that he wished to ask on what grounds the representative of India was making reference to the internal events in a State Member of the United Nations, rather than speaking about the disputed territory of Jammu and Kashmir, which was recognized as such by the United Nations.

85. Mr. SURIE (India) said that he was speaking of an open letter sent to the Secretary-General, in which Mr. Altaf Hussain vividly described extrajudicial killings, mass arrests and political victimization against members of the Movement. Pakistan should attempt to solve the problems within its own territory rather than attempting to sow discord and fuel terrorism in neighbouring countries.

The meeting rose at 6.05 p.m.